

MEETING MINUTES, BOARD OF ZONING APPEALS, APRIL 14, 2008

Present: Phil Tinkle, Shan Rutherford, Mike Campbell, Alford Kessinger, Ken Knartzer, Jay Isenberg, Asst. City Attorney, William Peeples, Senior Planner; and Janice Nix, Recording Secretary

The meeting was called to order at 6:00 p.m. by Phil Tinkle, Chairman.

PREVIOUS MINUTES

February 25th – Rutherford moved to approve the minutes as mailed, seconded by Campbell. Vote for **approval** was unanimous, 5-0. **Motion carried.**

FINDINGS OF FACT

Docket V2008-003 – Dimensional Variance – Greenwood Christian Church – Campbell moved that in consideration of the statutory criteria that we adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2008-003, seconded by Knartzer. Vote for **approval** was unanimous, 4-0, with Rutherford recusing himself from voting. **Motion carried.**

Docket V2008-004 – Dimensional Variance – Heartland Community Bank – Knartzer moved that in consideration of the statutory criteria that we adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2008-004, seconded by Rutherford. Vote for **approval** was unanimous, 5-0. **Motion carried.**

Docket V2008-005 – Dimensional Variance – 1152 Stonegate Road – Rutherford moved that in consideration of the statutory criteria that we adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2008-005, seconded by Campbell. Vote for **approval** was unanimous, 5-0. **Motion carried.**

NEW BUSINESS

Docket V2008-006 – Dimensional Variance – TLC Hair Salon – located at 85 E. Main St. – request to allow 4' x 2' ground sign with a setback of less than 10 feet from E. Main St. and less than the required sideyard setback – TLC Salon, applicant; John & Mary Sue Kane, owners.

Patricia Grimes, 85 E. Main St., Grwd, came forward and was sworn.

The statutory criteria was addressed as follows:

To allow less than 10' front yard setback:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community; **Answer:** The request seeks to establish a small freestanding sign associated with a commercial use. Freestanding signs associated with commercial uses enhance way-finding and do not detract from the safety of the adjacent public street.
2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The request would provide for a freestanding sign associated with an existing commercial use which cannot be practically located on the property without this variance request.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** The existing commercial use is located within a converted single-family residential structure that is setback from the Main

Street right-of-way 18 feet. While it is feasible for the sign to be located and meet the requirements of the Ordinance, the obstructions within the area between the existing structure and right-of-way decrease the legibility of the sign and a reduced setback would enhance said legibility. The sign, however, should be located no closer than one foot from the existing sidewalk.

4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10-3 because **Answer:** The property in question is 5,230 feet from the runway of the Greenwood Municipal Airport and the four-foot tall sign does not exceed the height requirement of Indiana Code to require FAA review.

Campbell moved to approve setback from E. Main St. of approx. 1' behind the sidewalk for TLC Salon located at 85 E. Main St., with the following conditions:

- 1) Sign shall be no closer to E. Main St. than 1' behind the sidewalk.
- 2) The required 15' sideyard setback required by ordinance will be met.

seconded by Knartzer. Vote for **approval** was unanimous, 5-0. **Motion carried.**

Knartzer inquired what the exact sideyard setback would be. Grimes replied it will be 4' from the sideyard. The Ordinance requires a 15' sideyard setback. Board members inquired why the 15' setback cannot be met. Discussion ensued. Grimes stated they are open to moving the sign to meet the sideyard setback requirement. She agreed to withdraw the request for the sideyard setback. The sign will not be lit. After discussion it was determined that the only variance request that needs to be addressed is to allow a setback of less than 10' from the right of way. Grimes stated there will only be one sign and it can be placed to meet the sideyard setback requirements.

Rutherford moved that we admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, seconded by Knartzer. Vote for **approval** was unanimous, 5-0. **Motion carried.**

Rutherford moved that having considered the statutory criteria that we direct the City Attorney's Office to draft written Findings of Fact, regarding our decision approving Variance Petition Number V2008-006, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Knartzer. Vote for **approval** was unanimous, 5-0. **Motion carried.**

Docket V2008-007 – Dimensional Variance – Dreyer & Reinbold Infiniti – located at 1301 U.S. 31 South – request to allow freestanding pylon sign measuring 6' x 18' – Shawn Smith, Site Enhancement Services, applicant; Dreyer & Reinbold Infiniti, owner.

Charlie Schallio, Site Enhancement Services, came forward and was sworn.

The proposed sign will be 18' high, with approximately 100 sq. feet in area. The variance petition includes request to vary from the site requirement of 9' from bottom of sign to the ground. Additional information was distributed for the Board's review. Mr. Schallio explained that each type of product Dreyer Reinbolt sells are from different manufacturers. They are attempting to obtain signage for each automobile line. Manufacturer restrictions require certain types of signs. Graphics package showing the proposed sign was handed out and discussed with the members.

The statutory criteria was addressed as follows:

Request for additional sign on parcel:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community; **Answer:** The sign would be located at the appropriate setback and be constructed in accordance with appropriate codes.
2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will be affected in a substantially adverse manner. **Answer:** The sign would result in one use having 5 freestanding signs in a space of 650 feet. The approval of this request could lead to the approval of additional requests that contribute to sign clutter along this stretch of highway reducing the effectiveness of all commercial speech. There are several other signs along U.S. 31 advertising commercial products.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will not result in practical difficulties in the use of the property. **Answer:** The property is improved with an existing freestanding sign that could be replaced with the proposed sign or the branding could be consolidated on one of the 4 other freestanding signs which serve this use. Petitioner feels all signs on the property are necessary. The proposed sign is necessary for identification of this particular product.
4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10-3 because **Answer:** The site is located 9,560 feet from the runway of the Greenwood Municipal Airport and the eighteen-foot tall sign does not exceed the height requirement of Indiana Code to require FAA review.

Campbell moved to **deny** additional freestanding pylon sign for Dreyer Reinbold Infiniti located at 1301 U.S. 31 South, seconded by Kessinger. Vote for **approval** of the motion was unanimous, 5-0. **Motion carried.**

Request to allow sign to measure 18' from top of sign to ground:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community; **Answer:** The sign would be located at the appropriate setback and be constructed in accordance with appropriate codes.
2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The sign would be attractively designed and compliment the commercial use.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** The sign design is consistent with a national trademark.
4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10-3 because **Answer:** The site is located 9,560 feet from the runway of the Greenwood Municipal Airport and the eighteen-foot tall sign does not exceed the height requirement of Indiana Code to require FAA review.

Campbell moved to approve a freestanding pylon sign measuring 6' x 18' for Dreyer Reinbold Infiniti located at 1301 U.S. 31 South, seconded by Knartzer. Vote for **approval** was unanimous, 5-0. **Motion carried.**

Rutherford asked about the location of sign in relation to the Infiniti product. Schallio stated that the product will be directly behind the sign. Campbell pointed out there a several additional signs on this property. Tinkle stated the Board has worked in the past to reduce the number of signs throughout the city. This could set a precedent for future variance requests for other car dealerships along U.S. 31.

Rutherford moved that we admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, seconded by Knartzner. Vote for **approval** was unanimous, 5-0. **Motion carried.**

Knartzner moved that having considered the statutory criteria that we direct the City Attorney's Office to draft written Findings of Fact, regarding our decision approving Variance Petition Number V2008-007, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Kessinger. Vote for **approval** was unanimous, 5-0. **Motion carried.**

ANNOUNCEMENTS/REPORTS

Knartzner moved to adjourn, seconded by Rutherford. Vote for **approval** was unanimous, 5-0. **Motion carried.** Meeting was adjourned a 6:57 p.m.

JANICE NIX
Recording Secretary

PHIL TINKLE
Chairman